

FILED
TARRANT COUNTY
8/19/2022 1:00 PM
THOMAS A. WILDER
DISTRICT CLERK

CAUSE NO. 352-335675-22

HORTENCIA GARCIA, § **IN THE DISTRICT COURT**
Plaintiff, §
v. § **_____ JUDICIAL DISTRICT**
§
HOBBY LOBBY STORES, INC. §
Defendant. § **TARRANT COUNTY, TEXAS**

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **HORTENCIA GARCIA** (hereinafter "Plaintiff"), complaining of and against **HOBBY LOBBY STORES, INC.** (hereinafter "Defendant"), and would respectfully show the Court as follows:

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3.

JURISDICTION AND VENUE

2. The Court has jurisdiction as Plaintiff's damages exceed the minimum jurisdictional limits of this Court. Plaintiff seeks monetary relief of over \$250,000 but not more than \$1,000,000.00.

3. Venue is proper in Tarrant County, Texas, pursuant to 15.002(a)(1) of the Texas Civil Practice & Remedies Code, because the facts that give rise to the cause of action occurred in Tarrant County, Texas.

PARTIES

4. **HORTENCIA GARCIA** is an individual residing in Tarrant County, Texas.

5. **HOBBY LOBBY STORES, INC.** is a foreign corporation doing business in this state. DEFENDANT **HOBBY LOBBY STORES, INC.** may be served with process through its registered agent: Corporation Service Company, DBA CSC-Lawyers Inco, at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

FACTS

7. On or about August 19, 2020, Plaintiff visited the Hobby Lobby store located at 9625 N Fwy in Fort Worth, Texas. As Plaintiff was leaving the lobby of the store, she tripped over a pallet that was left by the door. Because of her fall, Plaintiff sustained severe and painful personal injuries of which Plaintiff still suffers today.

RESPONDEAT SUPERIOR

8. The occurrence causing the injuries to Plaintiff was a result of the negligence of **HOBBY LOBBY STORES, INC.**, its agents, servants, and/ or employees, which negligent acts and/or omissions were committed by **HOBBY LOBBY STORES, INC.** agents, servants, and/or employees while in the course and scope of their employment for **HOBBY LOBBY STORES, INC.** Therefore, Defendant **HOBBY LOBBY STORES, INC.** is liable pursuant to the doctrine of Respondeat Superior.

PLAINTIFF WAS NOT NEGLIGENT

9. The occurrence causing injury to Plaintiff was not caused in any way by Plaintiff's fault, carelessness, or negligence.

PREMISES CLAIM BY INVITEE

10. Defendant had a duty to exercise ordinary care to protect Plaintiff against foreseeable risks of harm, as Defendant retained ownership and/or control over the premises. The conduct of Defendant proximately caused the personal injuries and damages in that Defendant's acts

and/or omissions constituted negligence, gross negligence and/or malice in the following acts, to wit:

- A. Failing to provide, incorporate, and/or abide by safety protocols;
- B. Failing to use ordinary care in maintaining the premises in a safe condition by inspecting the premises for any dangerous conditions on a routine basis;
- C. Failing to develop and implement adequate policies and procedures for the hiring, training, and supervision of their agents and/or employees;
- D. Failing to properly instruct, educate, or train their employees and agents to maintain a hazard free environment and safe premises;
- E. Failing to ensure that their agents and/or employees were aware of potential dangers to invitees and that such employees followed proper safety policies and procedures;
- F. Failing to properly train and supervise their agents and/or employees so as to avoid creating an unreasonable risk of harm to invitees;
- G. Failing to ensure the safety of invitees;
- H. Failing to prevent an unreasonable risk of harm on Defendant's premises; and
- I. Failing to warn Plaintiff of such an unreasonable risk of harm on the premises.

11. Each of the above acts and omissions, singularly or in combination with each other, was the proximate cause of Plaintiff sustaining injuries and damages that are described below. Plaintiff seeks recovery of those damages from Defendant.

GROSS NEGLIGENCE

12. Defendant's conduct when viewed objectively, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and of which Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with

conscious indifference to the rights, safety and welfare of others, specifically including Plaintiff. As such, Plaintiff additionally seeks exemplary damages as allowed by Chapter 41 of the Texas Civil Practice & Remedies Code.

MISNOMER

13. In the event any parties are misnamed or not included herein, it is Plaintiff's contention that such was a "misnomer" and/or such parties are/were alter-egos of parties named herein.

DAMAGES

14. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was caused to suffer severe bodily injuries and damages as set out below.

- A. Medical expenses in the past;
- B. Medical expenses in the future;
- C. Physical pain the past;
- E. Physical pain in the future;
- F. Mental anguish in the past;
- G. Mental anguish in the future;
- H. Physical impairment in the past;
- I. Physical impairment in the future;
- J. Disfigurement;
- K. Exemplary damages;
- L. Pre and post judgment interest at the maximum legal rate;
- M. Costs of court; and
- N. Such other and further relief, at law or in equity, to which Plaintiff shall show herself justly entitled.

T.R.C.P. 193.7 NOTICE SELF AUTHENTICATION

15. Plaintiff hereby gives notice, pursuant to Tex. R. Civ. P. 193.7, of Plaintiff's intent to utilize against the party producing same any document produced in response to written discovery served by this Plaintiff, and any documents exchanged provided between the parties (including but not limited to, correspondence, pleadings, records, and discovery responses) during the trial of this matter.

DESIGNATED E-SERVICE EMAIL ADDRESS


16. The following is the undersigned attorney's designated e-Service email address for all e-served documents and notices, filed and unfiled, pursuant to Tex. R. Civ. P. 21(f)(2) & 21a: E-Service@KTCLAWFIRM.com. This is the undersigned's only e-Service email address, and service through any other email address will be considered invalid.

PRAYER

17. **WHEREFORE**, Plaintiff respectfully requests the Court issue citations for Defendant to appear and answer, and that Plaintiff be awarded a judgment against Defendant for all actual damages described herein and for all other relief to which Plaintiff is entitled.

Respectfully submitted,

The Law Offices of Kelly T. Curran

BY: 

Ricky Kemp
State Bar No. 24077645
Midtown Office Center
5720 LBJ Fwy., Suite 440
Dallas, Texas 75240
Phone (469) 730-3007
Fax (469) 458-2993
E-Service@KTCLAWFIRM.com.- E-Service
ATTORNEY FOR PLAINTIFF